IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 788 OF 2002

WITH

NOTICE OF MOTION NO. 12 OF 2005

AND

CHAMBER SUMMONS NO. 26 OF 2005

The Kurla Samta Co-operative
Housing Society Ltd. & ors. .. Petitioners

V/s

State of Maharashtra & ors. .. Respondents

AND

WRIT PETITION NO. 2166 OF 2001

WITH

NOTICE OF MOTION NO. 11 OF 2005

AND

CHAMBER SUMMONS NO. 24 OF 2005

M/s R.K. Enterprises .. Petitioners

V/s

State of Maharashtra & ors. .. Respondents

Mr.C.M. Korde, Senior Counsel with Mr.Bipin Joshi for the Petitioners.

Ms.P.D. Ankaleswaria, Senior Counsel with Mr.D. D'Mello for the Respondents.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATE : 2ND MARCH 2005

P.C. :

1. Heard the learned counsel for the parties.

2. Both these petitions arise out of a somewhat similar situation. Certain open plot of land was made available by MHADA to the Developers of the S.R.A. Schemes. In Writ Petition No.788 of 2002, the Developer was M/s Savla Associates whereas in Writ Petition No.2166 of 2001, the Developer was M/s R.K. Enterprises. Both these concerns are sister concerns. Both these Developers were given possession of certain parcels of land to begin with for a period of 18 months. They were to provide transit accommodation on those plots so that they clear some other plots wherein hutments were situated. Thereafter an area occupied by the hutments was to be developed in the S.R.A. Schemes. MHADA made available the parcels of land at a concessional rate for this initial period of 18 months. The schemes were not completed within that period and the Developers continued to remain on those parcels of land.

3. In these circumstances, MHADA has demanded occupation charges for the period extended beyond 18 months. These two petitions are filed to challenge the demand made by MHADA in that behalf. The case of the Petitioners is that the demand is exorbitant and at an intermediate point, a meeting was held before the Housing Minister on 3rd January 2005 when the officers of MHADA and of the State Government participated and certain rates were agreed for the period for which these parcels of land were occupied.

4. The case of the Petitioners is that even what was decided in the meeting before the Minister was excessive. MHADA is however demanding something much more and it is on the basis of the ready reckoner giving the rate of land in a particular area of the city. The Petitioners are, however, agreeable that in case a proper hearing is given by the Authorities of MHADA, they will participate before the Authority concerned and the Authority should determine as to what should be the rate after considering the submissions of the Petitioners. This is because the submission of the Petitioners is that steep revision was made in the occupation charges. However, as an interim measure and without prejudice, the Petitioners are agreeable to

deposit the amounts arrived at at the rate which was fixed by the Minister.

5. The aforesaid suggestion emerged during the discussion in the court and Mr.Korde, learned counsel for the Petitioners, is agreeable to the suggestion. Ms.Ankleswaria, learned counsel for MHADA, has also taken instructions and she states that MHADA is also agreeable to afford a hearing to the representatives of the Petitioners.

6. In the circumstances, in our view, the course agreed will be a proper one. It is stated by Ms.Ankleswaria on instructions that the Deputy Chief Executive Engineer of MHADA, one Shri Dhole, who is a Senior Engineer, will give a hearing to the Petitioners with respect to the revision of rates which MHADA has demanded in the occupation charges. Mr.Korde states that the amounts to be deposited in both the Petitions, at the rate decided by the Minister, are Rs.11,34,134/- and Rs.1,94,919/-. The Petitioners will deposit these amounts with MHADA in the meanwhile, which deposit and receipt will be both without prejudice. Mr.Korde states that the amounts will be deposited within 4 weeks from today. The Officer will give a hearing to the

Petitioners and try to decide the issue within 8 weeks from today. The decision arrived at will not be enforced for a period of 4 weeks after service in case it is adverse to the Petitioners.

7. All the submissions of both the parties will be available to them at the time of hearing before the Officer.

8. Both the petitions stand disposed of.

9. The Notices of Motion and the Chamber Summonses also stand disposed of.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)